

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Roxanne Gant,

Plaintiff,

v.

The Swiss Colony, LLC d/b/a Direct Charge,

Defendant.

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: Civil Action No.: 4:19-cv-1347
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:
: **COMPLAINT**
: **JURY**
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:
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For this Complaint, Plaintiff, Roxanne Gant, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Roxanne Gant ("Plaintiff"), is an adult individual residing in Houston, Texas, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant, The Swiss Colony, LLC d/b/a Direct Charge ("Direct Charge"), is a Wisconsin business entity with an address of 1112 Seventh Avenue, Monroe, Wisconsin 53566-1364, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

5. Within the last year, Direct Charge called Plaintiff's cellular telephone, number 832-xxx-3647, in an attempt to collect a consumer debt allegedly owed by Plaintiff.

6. At all times mentioned herein, Direct Charge contacted Plaintiff using an automated telephone dialer system ("ATDS" or "predictive dialer") and/or by using an artificial or prerecorded voice.

7. When Plaintiff answered the calls from Direct Charge, she heard a prerecorded message.

8. On or about October 8, 2018, Plaintiff sent a message from her personal email address to Direct Charge requesting all calls to her cease and to only contact her by mail.

9. Plaintiff reiterated her cease request on Direct Charge's website through their message system.

10. In complete disregard of Plaintiff's cease requests, Direct Charge continued to place automated calls to Plaintiff's cellular telephone.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

11. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. At all times mentioned herein and within the last year, Defendant called Plaintiff on her cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

13. When Plaintiff answered calls from Defendant, she heard a prerecorded message.

14. Defendant continued to place automated calls to Plaintiff's cellular telephone after being directed by Plaintiff to cease calling and knowing there was no consent to continue the

calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

15. The telephone number called by Defendant was and is assigned to a serviced cellular telephone for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

16. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

17. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

18. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

19. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: April 12, 2019

Respectfully submitted,

By /s/ Jody B. Burton

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CERTIFICATE OF INTERESTED PARTIES

NOW COMES Jody B. Burton and hereby certifies that the following persons or entities
have a financial interest in the outcome of this litigation:

Roxanne Gant, Plaintiff
Houston, TX

Jody B. Burton, Esq.

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Respectfully submitted,

By /s/ Jody B. Burton

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